

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PRESTON LYONS,

Defendant-Appellant.

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UNPUBLISHED

March 27, 2001

No. 220549

Wayne Circuit Court

Criminal Division

LC No. 98-009513

Before: Markey, P.J., and Jansen and Zahra, JJ.

PER CURIAM.

Defendant was convicted by a jury of two counts of first-degree murder, MCL 750.316; MSA 28.548, and felony-firearm, MCL 750.227b; MSA 28.424(2), in the deaths of Christopher Clark and Antoinette Bates. He was sentenced to two concurrent terms of life imprisonment without the possibility of parole for the murder convictions, and a consecutive two-year term for the felony-firearm conviction. He appeals as of right. We affirm.

Defendant allegedly killed Clark and Bates, who were boyfriend and girlfriend, because they stole money from his brother, codefendant Leroy Lyons. Clark's body was found in the trunk of a burning car that belonged to defendant's father. Clark had been beaten and shot. Bates was defendant's niece. Bates has not been seen since Clark's 1987 murder.

Defendant argues on appeal that the trial court erred in dismissing his motions to quash and dismiss because of an eleven-year delay in initiating proceedings. We disagree. Plaintiff has rebutted any presumption of "actual and substantial" prejudice in this case. *People v Cain*, 238 Mich App 95, 110, 112; 605 NW2d 28 (1999). Moreover, the witnesses were slow in coming forward because of the family relationships, and police investigators testified that they needed to move cautiously because of their concern about the safety of witnesses. There is no indication that any delay was deliberately intended to prejudice defendant. *Id.* at 110.

Next, defendant contends that witness David Pary was an accomplice and the trial court erred in refusing to instruct the jury on accomplice testimony. There is no merit to this claim. There is no evidence that Pary was an accomplice to the specific crimes for which defendant was charged in this case. *People v Ho*, 231 Mich App 178, 189; 585 NW2d 357 (1998). Nothing was presented at trial to substantiate the accusation made by defense counsel regarding Pary's alleged accomplice status, *People v Holliday*, 144 Mich App 560, 565, 574; 376 NW2d 154

(1985), and no evidence that Pary knowingly and willingly participated in the charged murders, *People v Allen*, 201 Mich App 98, 105; 505 NW2d 869 (1993). Because the instruction was not supported by the evidence, the trial court properly refused to give it. *People v Wess*, 235 Mich App 241, 243; 597 NW2d 215 (1999).

Nor did the trial court err in refusing to instruct on “similar crimes” concerning defendant’s drug involvement. Where, as here, criminal acts are part of the “whole deed for which defendant is charged,” the prosecution is permitted to “complete the story of the crime by proving the immediate context of happenings near in time and place.” *People v Flynn*, 93 Mich App 713, 719; 287 NW2d 329 (1979). Further, defense counsel acquiesced when the trial court explained that the instruction was not appropriate in this case, stating, “Okay. I don’t disagree with that.” Absent a showing of ineffective assistance of counsel, counsel’s decisions about jury instructions are binding on a defendant. *People v Carter*, 462 Mich 206; 612 NW2d 144 (2000).

There is no merit to defendant’s claim that he was denied a fair trial because of limitations on his cross-examination of witnesses. The scope of cross-examination is left to the sound discretion of the trial court, and we find no abuse of discretion here. *Holliday, supra* at 566. The trial court properly limited cross-examination about a possible prior arrest or unproved charge against a witness where there was no showing that the allegations bore any relation to defendant or the charges against him. *People v Falkner*, 389 Mich 682, 695; 209 NW2d 193 (1973); *People v Layher*, 238 Mich App 573, 577-578, 580; 607 NW2d 91 (1999). The trial court did not err in limiting defendant’s speculative inquiry into whether other people in the neighborhood may have had conflicts with decedent Clark. There was no evidence that Clark may have been killed because of a neighborhood conflict, *Holliday, supra* at 573-574. To the contrary, there was overwhelming evidence that defendant killed Clark. *People v Mateo*, 453 Mich 203, 214; 551 NW2d 891 (1996).

Finally, there is no merit to the issues raised by defendant in propria persona. We have reviewed the allegations of prosecutorial misconduct and find that defendant was not denied a fair and impartial trial. *People v Reid*, 233 Mich App 457, 466; 592 NW2d 767 (1999). Defendant has not shown that counsel made serious mistakes that prejudiced his defense and denied him a fair trial. *People v Mitchell*, 454 Mich 145, 156; 560 NW2d 600 (1997). Also, the evidence presented to the jury was more than sufficient to sustain defendant’s convictions. *People v Hampton*, 407 Mich 354, 368; 285 NW2d 284 (1979).

Affirmed.

/s/ Jane E. Markey  
/s/ Kathleen Jansen  
/s/ Brian K. Zahra